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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Follow-up report on decisions relating to communications submitted under article 22 of the Convention*

The present report sets out information received from States parties and complainants in follow-up to the Committee's decisions relating to communications submitted since its fifty-third session, held from 3 to 28 November 2014.

Algeria

Case	*Bendib*, 376/2009
Decision adopted on	8 November 2013
Violation	Articles 1, 2 (1), 11, 12, 13 and 14

Recommendation: The Committee urged the State party to inform it, within 90 days from the date of the transmittal of the decision, of the steps taken in conformity with the above decision, including to conduct an impartial investigation into the events in question for the purpose of prosecuting those allegedly responsible for the victim's treatment; to hand over to the complainant the victim's autopsy report and records of the preliminary investigation, as requested by her and as promised to the Committee by the representative of the Government of the State party in May 2008; and to ensure that the complainant obtains full and effective redress.

Follow-up: On 5 November 2014, the State party submitted that the death in custody of the complainant's son had been investigated in 2006 and that the investigation had concluded that he had committed suicide.

On 6 November 2014, the complainant submitted that one year after the transmittal of the Committee's decision, it has not been implemented by the State party. She requested the Committee to intervene with the State party to speed up the implementation.

In January 2015, the complainant's comments were transmitted to the State party for comments.

Committee's decision: To keep the follow-up dialogue open.

* Adopted by the Committee at its fifty-fourth session (20 April-15 May 2015).

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Australia	
Case	*Dewage*, 387/2009
Decision adopted on	14 November 2013
Violation	Articles 3 and 22

Recommendation: The State party has an obligation to refrain from forcibly returning the author to Sri Lanka or to any other country where he runs a real risk of being expelled or returned to Sri Lanka.

Follow-up: On 1 December 2014, the complainant submitted that his application for a protection visa had been refused again, despite the Committee's decision.

On 15 December 2014, the State party referred to its submission of 8 August 2014, in which it stated that the Committee's decision would be considered in the assessment of the complainant's latest protection visa application.

In January 2015, the State party's submission was transmitted to the complainant for comments.

Committee's decision: To keep the follow-up dialogue open; and to contact the parties concerned to enquire about the implementation status.

Bulgaria	
Case	*Keremedchiev*, 257/2004
Decision adopted on	11 November 2008
Violation	Articles 12 and 16 (1)

Recommendation: The Committee urged the State party to provide an effective remedy to the complainant, including fair and adequate compensation for the suffering inflicted, in line with the Committee's general comment No. 2, as well as medical rehabilitation.

Follow-up: On 15 January 2015, the State party submitted that, on 13 November 2014, the Council of Ministers of the Republic of Bulgaria had adopted a decision to pay an individual financial compensation to the complainant in the above communication.

Committee's decision: To keep the follow-up dialogue open; and to contact the complainant to enquire whether he had been notified of the decision to provide him with compensation.

Burundi	
Case	*Ntikarahera*, 503/2012
Decision adopted on	12 May 2014
Violation	Articles 2 (1), 11, 12, 13 and 14, read in conjunction with articles 1 and 16

Recommendation: The Committee urged the State party to conduct an impartial investigation into the events in question for the purpose of prosecuting those allegedly responsible for the victim's treatment and to inform it, within 90 days from the date of the transmittal of the decision, of the steps taken in conformity with the decision, including providing adequate and fair compensation encompassing the means for as full rehabilitation as possible.

Follow-up: On 8 April 2015, the State party requested additional time to provide information regarding the implementation of the Committee's decision.

Committee's decision: To keep the follow-up dialogue open; and to extend deadline by another 90 days for the State party to provide it with information on the steps taken to implement the decision.

Germany

Case	*Abichou*, 430/2010
Decision adopted on	21 May 2013
Violation	Article 3

Recommendation: The Committee urged the State party to provide redress to the victim, including adequate compensation.

Follow-up: On 29 December 2014, the State party submitted that, by a letter dated 16 May 2014, it had offered compensation to the victim, but that neither he nor his legal representatives had responded to the offer. The State party considered itself still bound by that offer. It further submitted that if the victim was unsatisfied with that offer, he had the opportunity to use the remedies available to him under German law with regard to compensation. However, the Federal Government was not aware that he had filed any claims before the German courts.

In January 2015, the State party's submission was transmitted to the complainant for comments.

Committee's decision: To keep the follow-up dialogue open.

Kazakhstan

Case	*Gerasimov*, 433/2010
Decision adopted on	24 May 2012
Violation	Articles 1, 2 (1), 12, 13, 14 and 22

Recommendation: The Committee urged the State party to conduct a proper, impartial and effective investigation in order to bring to justice those responsible for the victim's treatment; to take effective measures to ensure that the victim and his family were protected from any forms of threats and intimidation; to provide the victim with full and adequate reparation for the suffering inflicted, including compensation and rehabilitation; and to prevent similar violations in the future.

Follow-up: On 8 January 2015, the State party submitted that it was working on amendments to the national legislation to "establish a mechanism of implementation of the compensation issues", following decisions of United Nations treaty bodies and that a draft proposal was under review by the Ministry of Justice.

In January 2015, the State party's submission was transmitted to the complainant for comments.

Committee's decision: To keep the follow-up dialogue open; and to contact the State party to enquire about the status of the investigation into the victim's torture allegations.

Kazakhstan	
Case	*Nasirov*, 475/2011
Decision adopted on	14 May 2014
Violation	Article 3

Recommendation: The Committee invited the State party to inform it, within 90 days from the date of the transmittal of the decision, of the steps taken in accordance with its observations.

Follow-up: On 8 December 2014, the complainant submitted that, in its latest submission, the State party had suggested that he appeal the Uralsk City Court decision of 27 March 2012 refusing to grant his brother refugee status before the Supreme Court. He maintained that the State party's suggestion was not an effective remedy because: (a) his brother was currently in the Russian Federation, where he had been granted temporary asylum and the issue of obtaining refugee status in Kazakhstan was no longer at stake; (b) given the situation, the Kazakhstan Supreme Court would justifiably reject his brother's appeal; and (c) the refugee status procedure as such was not an effective remedy for individuals accused of crimes such as terrorism and religious extremism, since such individuals fell under an exception provided for in article 12.5 of the Kazakhstan Law on Refugees. The complainant submitted that article 12.5 of the Law on Refugees should be revoked by the State party, since it contradicted the 1951 Refugee Convention. He made general observations on the refugee status determination proceedings in Kazakhstan and on the absence of adequate measures to prevent the removal of individuals to countries where there is a widespread practice of torture or ill-treatment, in particular individuals suspected of involvement in crimes such as terrorism and religious extremism.

In January 2015, the complainant's submission was transmitted to the State party for comments.

Committee's decision: To keep the follow-up dialogue open.

Kazakhstan	
Case	*Bairamov*, 497/2012
Decision adopted on	14 May 2014
Violation	Articles 1, 2 (1),12, 13, 14 and 15

Recommendation: The Committee urged the State party to conduct a proper, impartial and independent investigation in order to bring to justice those responsible for the complainant's treatment; to provide the complainant with full and adequate reparation, including compensation and rehabilitation; and to prevent similar violations in the future.

Follow-up: On 7 November 2014, the State party submitted that, on 30 July 2014, the Prosecutor's Office of Kostanay Region had initiated a criminal investigation into charges under article 347-1, part 2, point (a) (torture) of the Criminal Code of Kazakhstan. The complainant was questioned, in his capacity as victim; his mother was questioned, in her capacity as witness; two police officers were interrogated as suspects regarding the application of physical and psychological pressure on the complainant. Other police officers and witnesses were also questioned. A psychiatric opinion issued on 8 September 2014 concluded that the complainant was suffering from a type of psychotic syndrome. The State party stated that, on 27 September 2014, the complainant had filed a request for another psychiatric forensic examination, which was conducted on 29 September 2014.

On 30 September 2014, the criminal procedure was suspended, pending finalization of the psychiatric opinion. At the same time, the complainant had filed a civil claim for compensation before the Kostanay City Court against the Department of Internal Affairs. That case was also suspended further to a request by his lawyer for suspension until the psychiatric consultations were completed. The State party submitted that it would inform the Committee of any further developments.

In January 2015, the State party's submission was transmitted to the complainant for comments.

Committee's decision: To keep the follow-up dialogue open.

Russian Federation

Case	*Kirsanov*, 478/2011
Decision adopted on	14 May 2014
Violation	Article 16

Recommendation: The Committee invited the State party to take steps to provide the complainant with redress, including fair and adequate compensation. The State party is also under an obligation to prevent similar violations in the future.

Follow-up: On 17 December 2014, the complainant submitted that his requests to the State party's authorities to implement the Committee's decision had been returned to him with a request to enclose a copy of the said decision.

In January 2015, the complainant's submission was transmitted to the State party for comments.

Committee's decision: To keep the follow-up dialogue open.

Switzerland

Case	*X.*, 470/2011
Decision adopted on	24 November 2014
Violation	Article 3

Recommendation: The State party has an obligation to refrain from forcibly returning the complainant to the Islamic Republic of Iran or to any other country where he runs a real risk of being expelled or returned to the Islamic Republic of Iran.

Follow-up: On 19 January 2015, the State party submitted that, following the Committee's decision, the complainant was granted refugee status and a residence permit on 16 January 2015.

On 20 January 2015, the counsel for the complainant confirmed that he had been granted refugee status and was not under threat of removal.

Committee's decision: To close the follow-up dialogue with a note indicating satisfactory resolution.

Switzerland	
Case	*Fadel*, 450/2011
Decision adopted on	14 November 2014
Violation	Article 3

Recommendation: The Committee invited the State party to inform it, within 90 days from the date of the transmittal of its decision, of the steps taken in response to its observations.

Follow-up: On 10 February 2015, the State party submitted that, following the Committee's decision, the complainant was granted refugee status and a residence permit on 3 February 2015 and that he no longer risked being removed to Yemen.

On 25 March 2015, the counsel for the complainant confirmed that he had received a residence permit and was no longer at risk of deportation.

Committee's decision: To close the follow-up dialogue with a note indicating satisfactory resolution.

Switzerland	
Case	*Azizi*, 492/2011
Decision adopted on	27 November 2014
Violation	Article 3

Recommendation: The Committee urged the State party to inform it, within 90 days from the date of the transmittal of its decision, of the steps taken in response to the decision expressed.

Follow-up: On 19 January 2015, the State party submitted that, following the Committee's decision, the complainant was granted refugee status and a residence permit on 16 January 2015 and that he no longer risked being removed to the Islamic Republic of Iran.

On 23 March 2015, the complainant confirmed that he had received a residence permit and was no longer under threat of removal to the Islamic Republic of Iran.

Committee's decision: To close the follow-up dialogue with a note indicating satisfactory resolution.

Switzerland	
Case	*Tahmuresi*, 489/2012
Decision adopted on	26 November 2014
Violation	Article 3

Recommendation: The Committee urged the State party to inform it, within 90 days from the date of the transmittal of its decision, of the steps taken in response to the decision expressed.

Follow-up: On 29 January 2015, the State party submitted that, following the Committee's decision, the complainant was granted refugee status and a residence permit on 23 January 2015 and that he no longer risked being removed to the Islamic Republic of Iran.

On 7 April 2015, the complainant confirmed that he had been granted refugee status and was no longer under threat of removal to the Islamic Republic of Iran.

Committee's decision: To close the follow-up dialogue with a note indicating satisfactory resolution.

Switzerland

Case	*Khademi et al.*, 473/2011
Decision adopted on	14 November 2014
Violation	Article 3

Recommendation: The State party has an obligation to refrain from forcibly returning the complainants to the Islamic Republic of Iran or to any other country where they run a real risk of being expelled or returned to the Islamic Republic of Iran.

Follow-up: On 29 January 2015, the State party submitted that, following the Committee's decision, the complainants were granted temporary residence permits on 27 January 2015 and that they were no longer at risk of removal.

On 6 February 2015, the counsel for the complainants confirmed that they had been granted refugee status and were no longer under threat of removal. He urged the Committee not to close the follow-up dialogue without asking the State party for compensation to cover the lawyer's fees incurred by the complainants for legal services provided in relation to their communication before the Committee.

On 24 March 2015, the State party submitted that the Convention did not contain a provision that could serve as legal basis for compensation claims to cover legal fees and invited the Committee to close the follow-up dialogue with regard to the above communication.

Committee's decision: To close the follow-up dialogue with a note indicating satisfactory resolution.